

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 807

AN ACT

2 To repeal sections 355.176, 383.010, 383.035,
3 408.040, 508.010, 508.040 508.070, 508.120,
4 510.263, 516.105, 537.035, 537.067, 538.205,
5 538.210, 538.220, and 538.225, RSMo, and to
6 enact in lieu thereof twenty-seven new
7 sections relating to civil actions and the
8 payment thereof.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
10 AS FOLLOWS:

11 Section A. Sections 355.176, 383.010, 383.035, 408.040,
12 508.010, 508.040 508.070, 508.120, 510.263, 516.105, 537.035,
13 537.067, 538.205, 538.210, 538.220, and 538.225, RSMo, are
14 repealed and twenty-seven new sections enacted in lieu thereof,
15 to be known as sections 355.176, 383.010, 383.035, 383.400,
16 383.401, 383.402, 383.403, 383.404, 383.405, 383.406, 383.407,
17 383.600, 408.040, 508.010, 510.263, 516.105, 537.035, 537.067,
18 538.205, 538.210, 538.213, 538.220, 538.225, 538.226, 1, 2, and
19 3, to read as follows:

20 355.176. 1. A corporation's registered agent is the
21 corporation's agent for service of process, notice, or demand
22 required or permitted by law to be served on the corporation.

1 2. If a corporation has no registered agent, or the agent
2 cannot with reasonable diligence be served, the corporation may
3 be served by registered or certified mail, return receipt
4 requested, addressed to the secretary of the corporation at its
5 principal office shown in the most recent annual report filed
6 pursuant to section 355.856. Service is perfected under this
7 subsection on the earliest of:

8 (1) The date the corporation receives the mail;

9 (2) The date shown on the return receipt, if signed on
10 behalf of the corporation; or

11 (3) Five days after its deposit in the United States mail,
12 if mailed and correctly addressed with first class postage
13 affixed.

14 3. This section does not prescribe the only means, or
15 necessarily the required means, of serving a corporation.

16 383.010. 1. Notwithstanding any direct or implied
17 prohibitions in chapter 375, 377, or 379, RSMo, any three or more
18 persons, residents of this state, being licensed under the
19 provisions of chapter 330, 331, 332, 334, 335, 336, 338 or 339,
20 RSMo, or under rule 8 of the supreme court of Missouri or
21 architects licensed pursuant to chapter 327, RSMo, may, as
22 provided in sections 383.010 to 383.040, form a business entity
23 for the purpose of providing malpractice insurance or
24 indemnification for such persons upon the assessment plan, and

1 upon compliance with section 379.260, RSMo, liability and
2 automobile insurance as defined in subdivisions (1) and (3) of
3 section 379.230, RSMo, may be provided upon the assessment plan
4 to those persons licensed pursuant to chapter 197, RSMo, and for
5 whom medical malpractice insurance is provided under this
6 section, except that automobile insurance shall be provided only
7 for ambulances as defined in section 190.100, RSMo. Hospitals,
8 public or private, whether incorporated or not, as defined in
9 chapter 197, RSMo, if licensed by the state of Missouri,
10 professional corporations formed under the provisions of chapter
11 356, RSMo, for the practice of law and corporations,
12 copartnerships or associations licensed under the provisions of
13 chapter 339, RSMo, may also become members of any such entity.
14 The term "persons" as used in sections 383.010 to 383.040
15 includes such hospitals, professional corporations and real
16 estate business entities.

17 2. Anything in this section to the contrary
18 notwithstanding, any persons duly licensed under the provisions
19 of the laws of any other state who, if licensed under any similar
20 provisions of the laws of this state, would be eligible to become
21 members and insureds of an entity created under the authority of
22 this section, may become members and insureds of such an entity,
23 irrespective of whether such persons are residents of this state;
24 provided, however, that any such persons must be employed by, or

1 be a partner, shareholder or member of, a professional
2 corporation, corporation, copartnership or association insured by
3 or to be insured by such an entity.

4 3. Except as provided in this subsection, notwithstanding
5 any provision of law which might be construed to the contrary,
6 sections 379.882 and 379.888, RSMo, defining "commercial casualty
7 insurance", shall not include professional malpractice insurance
8 policies issued by any insurer in this state. Sections 379.882
9 to 379.888, RSMo, defining "commercial casualty insurance" shall
10 include policies providing professional malpractice insurance or
11 indemnification to any health care provider, as defined in
12 section 538.205, RSMo, issued by any insurer in this state,
13 including associations established under sections 383.010 to
14 383.040.

15 383.035. 1. Any association licensed pursuant to the
16 provisions of sections 383.010 to 383.040 shall be subject to the
17 provisions of the following provisions of the revised statutes of
18 Missouri:

19 (1) Sections 374.010, 374.040, 374.046, 374.110, 374.115,
20 374.122, 374.170, 374.210, 374.215, 374.216, 374.230, 374.240,
21 374.250 and 374.280, RSMo, relating to the general authority of
22 the director of the department of insurance;

23 (2) Sections 375.022, 375.031, 375.033, 375.035, 375.037
24 and 375.039, RSMo, relating to dealings with licensed agents and

1 brokers;

2 (3) Sections 375.041 and 379.105, RSMo, relating to annual
3 statements;

4 (4) Section 375.163, RSMo, relating to the competence of
5 managing officers;

6 (5) Section 375.246, RSMo, relating to reinsurance
7 requirements, except that no association shall be required to
8 maintain reinsurance, and for insurance issued to members who
9 joined the association on or before January 1, 1993, an
10 association shall be allowed credit, as an asset or as a
11 deduction from liability, for reinsurance which is payable to the
12 ceding association's insured by the assuming insurer on the basis
13 of the liability of the ceding association under contracts
14 reinsured without diminution because of the insolvency of the
15 ceding association;

16 (6) Section 375.390, RSMo, relating to the use of funds by
17 officers for private gain;

18 (7) Section 375.445, RSMo, relating to insurers operating
19 fraudulently;

20 (8) Section 379.080, RSMo, relating to permissible
21 investments, except that limitations in such section shall apply
22 only to assets equal to such positive surplus as is actually
23 maintained by the association;

24 (9) Section 379.102, RSMo, relating to the maintenance of

1 unearned premium and loss reserves as liabilities, except that
2 any such loss reserves may be discounted in accordance with
3 reasonable actuarial assumptions;

4 (10) Sections 379.882 to 379.893, RSMo, relating to
5 commercial casualty insurance;

6 (11) Subsection 6 of section 379.321, RSMo, relating to
7 commercial casualty rate filing and notice requirements; and

8 (12) Sections 374.202 to 374.207, RSMo, relating to the
9 examination powers of the director of insurance.

10 2. Any association which was licensed pursuant to the
11 provisions of sections 383.010 to 383.040 on or before January 1,
12 1992, shall be allowed until December 31, 1995, to comply with
13 the provisions of this section as they relate to investments,
14 reserves and reinsurance.

15 3. Any association licensed pursuant to the provisions of
16 sections 383.010 to 383.040 shall file with its annual statement
17 a certification by a fellow or an associate of the Casualty
18 Actuarial Society. Such certification shall conform to the
19 National Association of Insurance Commissioners annual statement
20 instructions unless otherwise provided by the director of the
21 department of insurance.

22 4. The director of the department of insurance shall have
23 authority in accordance with section 374.045, RSMo, to make all
24 reasonable rules and regulations to accomplish the purpose of

1 sections 383.010 to 383.040, including the extent to which
2 insurance provided by an association may be extended to provide
3 payment to a covered person resulting from a specific illness
4 possessed by such covered person; except that no rule or
5 regulation may place limitations or restrictions on the amount of
6 premium an association may write or on the amount of insurance or
7 limit of liability an association may provide.

8 5. Other than as provided in this section, no other
9 insurance law of the state of Missouri shall apply to an
10 association licensed pursuant to the provisions of this chapter,
11 unless such law shall expressly state it is applicable to such
12 associations.

13 6. If, after August 28, 1992, and after its second full
14 calendar year of operation, any association licensed under the
15 provisions of sections 383.010 to 383.040 shall file an annual
16 statement which shows a surplus as regards policyholders of less
17 than zero dollars, or if the director of the department of
18 insurance has other conclusive and credible evidence more recent
19 than the last annual statement indicating the surplus as regards
20 policyholders of an association is less than zero dollars, the
21 director of the department of insurance may order such
22 association to submit, within ninety days following such order, a
23 voluntary plan under which the association will restore its
24 surplus as regards policyholders to at least zero dollars. The

1 director of the department of insurance may monitor the
2 performance of the association's plan and may order modifications
3 thereto, including assessments or rate or premium increases, if
4 the association fails to meet any targets proposed in such plan
5 for three consecutive quarters.

6 7. If the director of the department of insurance issues an
7 order in accordance with subsection 6 of this section, the
8 association may, in accordance with chapter 536, RSMo, file a
9 petition for review of such order. Any association subject to an
10 order issued in accordance with subsection 6 of this section
11 shall be allowed a period of three years, or such longer period
12 as the director may allow, to accomplish its plan to restore its
13 surplus as regards policyholders to at least zero dollars. If at
14 the end of the authorized period of time the association has
15 failed to restore its surplus to at least zero dollars, or if the
16 director of the department of insurance has ordered modifications
17 of the voluntary plan and the association's surplus has failed to
18 increase within three consecutive quarters after such
19 modification, the director of the department of insurance may
20 allow an additional time for the implementation of the voluntary
21 plan or may exercise his powers to take charge of the association
22 as he would a mutual casualty company pursuant to sections
23 375.1150 to 375.1246, RSMo. Sections 375.1150 to 375.1246, RSMo,
24 shall apply to associations licensed pursuant to sections 383.010

1 to 383.040 only after the conditions set forth in this section
2 are met. When the surplus as regards policyholders of an
3 association subject to subsection 6 of this section has been
4 restored to at least zero dollars, the authority and jurisdiction
5 of the director of the department of insurance under subsections
6 6 and 7 of this section shall terminate, but this subsection may
7 again thereafter apply to such association if the conditions set
8 forth in subsection 6 of this section for its application are
9 again satisfied.

10 8. Any association licensed pursuant to the provisions of
11 sections 383.010 to 383.040 shall place on file with the director
12 of the department of insurance, except as to excess liability
13 risks which by general custom are not written according to manual
14 rates or rating plans, a copy of every manual of classifications,
15 rules, underwriting rules and rates, every rating plan and every
16 modification of the foregoing which it uses. Filing with the
17 director of the department of insurance within ten days after
18 such manuals, rating plans or modifications thereof are effective
19 shall be sufficient compliance with this subsection. Any rates,
20 rating plans, rules, classifications or systems in effect or in
21 use by an association on August 28, 1992, may continue to be used
22 by the association. Upon written application of a member of an
23 association, stating his reasons therefor, filed with the
24 association, a rate in excess of that provided by a filing

1 otherwise applicable may be used by the association for that
2 member.

3 383.400. 1. As used in sections 383.400 to 383.407, the
4 term "insurer" or "insurers" means any insurance company, mutual
5 insurance company, medical malpractice association, any entity
6 created under this chapter, or other entity providing any
7 insurance to any health care provider, as defined in section
8 538.205, RSMo, practicing medicine in the state of Missouri,
9 against claims for malpractice or professional negligence.

10 2. Notwithstanding any other provision of law, no insurer
11 shall, with regards to medical malpractice insurance, as defined
12 in section 383.150:

13 (1) Charge an assessment or surcharge, or increase the
14 premium charges, by more than one thousand dollars for such
15 insurance without first providing written notice by United States
16 mail to the insured at least sixty days prior to the effective
17 date of such actions;

18 (2) Fail or refuse to renew the aforesaid insurance without
19 first providing written notice by United States mail to the
20 insured at least sixty days prior to the effective date of such
21 actions, unless such failure or refusal to renew is based upon a
22 failure to pay sums due or a termination or suspension of the
23 health care provider's license to practice medicine in the state
24 of Missouri; or

1 (3) Cease the issuance of such policies of insurance in the
2 state of Missouri without first providing written notice by
3 United States mail to the insured and to the Missouri department
4 of insurance at least one hundred eighty days prior to the
5 effective date of such actions.

6 383.401. The Missouri department of insurance shall, prior
7 to May 30, 2005, establish between twelve and twenty risk-
8 reporting categories for medical malpractice insurance premiums,
9 as defined in section 383.150, and shall establish regulations
10 for the reporting of all premiums charged by such categories.

11 383.402. All insurers shall, with regards to medical
12 malpractice insurance as defined in section 383.150, provide to
13 the Missouri department of insurance, beginning on June 1, 2005,
14 and not less than annually thereafter, an accurate report as to
15 the actual rates charged by such company for such insurance, for
16 each of the risk-reporting categories established in section
17 383.401.

18 383.403. Not later than December 31, 2006, and at least
19 annually thereafter, the Missouri department of insurance shall,
20 utilizing the information provided pursuant to section 383.402
21 establish and publish, a market rate reflecting the median of the
22 actual rates charged for each of the aforesaid risk-reporting
23 categories for the preceding year.

24 383.404. After January 1, 2007, insurance premium rates

1 charged by any insurer, with regards to medical malpractice
2 insurance as defined in section 383.150, which are no greater
3 than twenty percent higher, or twenty percent lower than the
4 market rate established pursuant to section 383.403, shall be
5 presumed to be reasonable.

6 383.405. After January 1, 2007, insurance premium rates
7 charged by any insurer, with regards to medical malpractice
8 insurance as defined in section 383.150, which are greater than
9 twenty percent higher, or twenty percent lower than the market
10 rate established pursuant to section 383.403, shall be presumed
11 to be unreasonable.

12 383.406. 1. As used in this section, "director" means the
13 director of the department of insurance.

14 2. If any insurer proposes to increase or decrease the
15 premium rates so that they are presumed to be unreasonable under
16 section 383.405 for medical malpractice insurance as defined in
17 section 383.150, the insurer shall notify the director in writing
18 at least sixty days prior to the effective date of the proposed
19 premium rate change. The notice shall include a detailed
20 description of the proposed premium rate change, actuarial
21 justification for the premium rate change, and such other
22 information as the director may prescribe by rule.

23 3. Within ten days of receipt of the notice from the
24 insurer, the director shall set a date for a hearing on the

1 proposed premium rate change and shall publish notice of the
2 hearing. The date set for the hearing shall be within thirty
3 days after receipt of the notice from the insurer. The director
4 shall provide a copy of any information filed by the insurer
5 under subsection 2 of this section to any person making a written
6 request for such information. The hearing may, at the director's
7 discretion, be a public hearing.

8 4. At the hearing, the insurer may provide additional
9 information in support of its proposed premium rate change, and
10 any member of the public may provide information in support of or
11 in opposition to the proposed premium rate change.

12 5. Within twenty days after the close of the hearing, the
13 director shall review all of the information submitted and
14 determine whether the proposed premium rate change is justified.
15 No rate shall be considered justified that is excessive,
16 inadequate, or unfairly discriminatory. If the director
17 determines that the rate is justified, the director shall issue
18 an order authorizing the insurer to use the premium rate as
19 proposed. If the director determines that the rate is not
20 justified, the director shall issue an order prohibiting the use
21 of the premium rate as proposed. The insurer may appeal the
22 order under chapter 536, RSMo.

23 383.407. 1. If the director finds that any insurer or
24 filing organization has violated any provision of sections

1 383.400 to 383.406, the director may impose a penalty of not more
2 than five hundred dollars for each violation, but if the director
3 finds the violation to be willful, the director may impose a
4 penalty of not more than five thousand dollars for each
5 violation. Such penalties may be in addition to any other
6 penalty provided by law.

7 2. The director may suspend the license of any rating
8 organization or insurer that fails to comply with an order of the
9 director relating to sections 383.400 to 383.406 within the time
10 limited by such order, or any extension thereof which the
11 director may grant. The director shall not suspend the license
12 of any rating organization or insurer for failure to comply with
13 an order until the time prescribed for an appeal therefrom has
14 expired or if an appeal has been taken, until the order has been
15 affirmed. The director may determine when a suspension of
16 license shall become effective and it shall remain in effect for
17 a period fixed by the director, unless the director modifies or
18 rescinds such suspension or until the order upon which such
19 suspension is based is modified, rescinded, or reversed.

20 3. No penalty shall be imposed or no license shall be
21 suspended or revoked except upon a written order of the director,
22 stating the director's findings, made after a hearing held upon
23 not less than ten days' written notice to such person or
24 organization specifying the alleged violation.

1 383.600. 1. Beginning January 1, 2005, any public
2 corporation organized pursuant to section 287.902, RSMo, may form
3 a corporation, association or company for the purpose of issuing
4 medical malpractice insurance, as that term is defined in section
5 383.100, under the provisions of this section. Any corporation,
6 association, or company formed under the provisions of this
7 section shall be organized and operated as a stock company. The
8 incorporators of such a stock company shall also meet the
9 requirements of chapter 379, RSMo, relating to the organization
10 of insurance companies and the laws of this state governing the
11 organization of private corporations unless the provisions of
12 this section provide otherwise. All insurance laws of this state
13 shall apply to any corporation, association, or company formed
14 under the provisions of this section unless the provisions of
15 this section provide otherwise. No company, corporation or
16 association authorized to issue medical malpractice insurance
17 pursuant to chapter 379 prior to August 28, 2004, shall
18 incorporate under the provisions of this section.

19 2. In addition to the requirements set forth in section
20 379.035, RSMo, the declaration and the articles of incorporation
21 filed by the incorporators of the proposed stock company shall
22 provide that the stock insurance company shall issue medical
23 malpractice insurance to health care providers in Missouri.

24 3. Any company formed under the provisions of this section

1 shall be subject to all provisions of the statutes that relate to
2 private insurance carriers and to the jurisdiction of the
3 department of insurance in the same manner as private insurance
4 carriers, except as provided by the director. The director of
5 the department of insurance may waive the capital and surplus
6 requirements of chapter 379 solely for medical malpractice for
7 any company formed under the provisions of this section for a
8 period of five years after its incorporation.

9 4. Notwithstanding section 375.772, RSMo, any stock company
10 incorporated or formed under this section shall not be a member
11 of the Missouri property and casualty insurance guarantee
12 association, be subject to assessments from such association, nor
13 be classified as an insolvent insurer under sections 375.771 to
14 375.779, RSMo, unless the company meets the capital and surplus
15 requirements provided in chapter 379, RSMo, and maintains such
16 capital and surplus requirements for a period of not less than
17 three consecutive years. After the three-year period has
18 expired, the stock company incorporated under the provisions of
19 this section shall participate in the Missouri property and
20 casualty insurance guarantee association pursuant to sections
21 375.771 to 375.779, RSMo, provided that the company shall
22 continue to meet the capital and surplus requirements provided in
23 chapter 379, RSMo.

24 5. Any association formed pursuant to sections 383.020 to

1 383.040 for the purpose of providing medical malpractice
2 insurance to its members, may be merged into one of the stock
3 companies formed under this section.

4 408.040. 1. Interest shall be allowed on all money due
5 upon any judgment or order of any court from the day of rendering
6 the same until satisfaction be made by payment, accord or sale of
7 property; all such judgments and orders for money upon contracts
8 bearing more than nine percent interest shall bear the same
9 interest borne by such contracts, and, except as provided by
10 subsection 3 of this section, all other judgments and orders for
11 money shall bear nine percent per annum until satisfaction made
12 as aforesaid.

13 2. In tort actions, if a claimant has made a demand for
14 payment of a claim or an offer of settlement of a claim, to the
15 party, parties or their representatives, and to such party's
16 liability insurer if known to the claimant, and the amount of the
17 judgment or order exceeds the demand for payment or offer of
18 settlement, then prejudgment interest, [at the rate specified in
19 subsection 1 of this section,] shall be awarded, calculated from
20 a date [sixty] ninety days after the demand or offer was [made]
21 received, as shown by the certified mail return receipt, or from
22 the date the demand or offer was rejected without counter offer,
23 whichever is earlier. [Any such demand or offer shall be made in
24 writing and sent by certified mail and shall be left open for

1 sixty days unless rejected earlier.] In order to qualify as a
2 demand or offer pursuant to this section, such demand must:

3 (1) Be in writing and sent by certified mail return receipt
4 requested; and

5 (2) Be accompanied by an affidavit of the claimant
6 describing the nature of the claim and theory of liability, the
7 nature of any injuries claimed and a computation of any category
8 of damages sought by the claimant with supporting documentation;
9 and

10 (3) For personal injury and bodily injury claims, be
11 accompanied by a list of the names and addresses of medical
12 providers who have provided treatment to the claimant for such
13 injuries, copies of all medical bills, a list of employers if the
14 claimant is seeking damages for loss of wages or earnings, and
15 written authorizations sufficient to allow the party, its
16 representatives, and liability insurer if known to the claimant
17 to obtain records from all employers and medical care providers;
18 and

19 (4) Reference this section and be left open for ninety
20 days.

21 If the claimant fails to file a cause of action in circuit court
22 within thirty days after the expiration of ninety days as
23 provided in subdivision (4) of this subsection, then the court
24 shall not award prejudgment interest to the claimant. If the

1 claimant is a minor or incompetent or deceased, the affidavit may
2 be signed by any person who reasonably appears to be qualified to
3 act as next friend or conservator or personal representative. If
4 the claim is one for wrongful death, the affidavit may be signed
5 by any person qualified pursuant to section 537.080, RSMo, to
6 make claim for the death. Nothing contained herein shall limit
7 the right of a claimant, in actions other than tort actions, to
8 recover prejudgment interest as otherwise provided by law or
9 contract.

10 3. Notwithstanding the provisions of subsection 1 of this
11 section, in tort actions, a judgment for prejudgment interest
12 awarded pursuant to subsection 2 of this section should bear
13 interest at a per annum interest rate equal to the Federal Funds
14 Rate, as established by the Federal Reserve Board, plus three
15 percent. A judgment awarded for post judgment interest should
16 bear interest at a per annum interest rate equal to the Federal
17 Funds Rate, as established by the Federal Reserve Board, plus
18 five percent. The judgment shall state the applicable interest
19 rate.

20 508.010. [Suits instituted by summons shall, except as
21 otherwise provided by law, be brought] 1. As used in this
22 section, "principal place of residence" shall mean the county
23 which is the main place where an individual resides in the state
24 of Missouri. There shall be a rebuttable presumption that the

1 county of voter registration is the principal place of residence.

2 There shall be only one principal place of residence.

3 2. In all actions in which there is no count alleging a
4 tort, venue shall be determined as follows:

5 (1) When the defendant is a resident of the state, either
6 in the county within which the defendant resides, or in the
7 county within which the plaintiff resides, and the defendant may
8 be found;

9 (2) When there are several defendants, and they reside in
10 different counties, the suit may be brought in any such county;

11 (3) When there are several defendants, some residents and
12 others nonresidents of the state, suit may be brought in any
13 county in this state in which any defendant resides;

14 (4) When all the defendants are nonresidents of the state,
15 suit may be brought in any county in this state[;

16 (5) Any action, local or transitory, in which any county
17 shall be plaintiff, may be commenced and prosecuted to final
18 judgment in the county in which the defendant or defendants
19 reside, or in the county suing and where the defendants, or one
20 of them, may be found;

21 (6) In all tort actions the suit may be brought in the
22 county where the cause of action accrued regardless of the
23 residence of the parties, and process therein shall be issued by
24 the court of such county and may be served in any county within

1 the state; provided, however, that in any action for defamation
2 or for invasion of privacy the cause of action shall be deemed to
3 have accrued in the county in which the defamation or invasion
4 was first published].

5 3. Tort actions shall include claims based upon improper
6 health care.

7 4. Notwithstanding any other provision of law in all
8 actions in which there is any count alleging a tort and in which
9 the cause of action accrued in the state of Missouri, venue shall
10 be in any county within the judicial circuit where the cause of
11 action accrued. As used in this section, "judicial circuit where
12 the cause of action accrued" shall mean the judicial circuit
13 where the plaintiff, or, in the case of a wrongful death action,
14 the decedent, was first injured by the wrongful acts or negligent
15 conduct alleged in the action.

16 5. Notwithstanding any other provision of law, in all
17 actions in which there is any count alleging a tort and in which
18 the cause of action accrued outside the state of Missouri, venue
19 shall be determined as follows:

20 (1) If the defendant is a corporation, then venue shall be
21 in any county within the judicial circuit where a corporation's
22 registered agent is located or, if there are one or two
23 plaintiffs properly joined and either of the plaintiff's
24 principal place of residence was in the state of Missouri on the

1 date the cause of action accrued, in any county within the
2 judicial circuit of a plaintiff's principal place of residence on
3 the date the cause of action accrued;

4 (2) If the defendant is an individual, then venue may be in
5 any county within the judicial circuit of the individual's
6 principal place of residence in the state of Missouri or, if
7 there are one or two plaintiffs properly joined and either of the
8 plaintiff's principal place of residence was in the state of
9 Missouri on the date the cause of action accrued, in any county
10 within the judicial circuit of a plaintiff's principal place of
11 residence on the date the cause of action accrued.

12 6. Any action, local or transitory, in which any county
13 shall be plaintiff, may be commenced and prosecuted to final
14 judgment in the county in which the defendant or defendants
15 reside, or in the county suing and where the defendants, or one
16 of them, may be found.

17 7. In all actions process therein shall be issued by the
18 court of such county and may be served in any county within the
19 state.

20 8. In any action for defamation or for invasion of privacy,
21 the cause of action shall be deemed to have accrued in the county
22 in which the defamation or invasion was first published.

23 9. In all actions, venue shall be determined as of the date
24 the cause of action accrued.

1 10. All motions to dismiss or to transfer based upon a
2 claim of improper venue shall be deemed granted if not denied
3 within ninety days of filing of the motion unless such time
4 period is waived in writing by all parties.

5 510.263. 1. All actions tried before a jury involving
6 punitive damages, including tort actions based upon improper
7 health care, shall be conducted in a bifurcated trial before the
8 same jury if requested by any party.

9 2. In the first stage of a bifurcated trial, in which the
10 issue of punitive damages is submissible, the jury shall
11 determine liability for compensatory damages, the amount of
12 compensatory damages, including nominal damages, and the
13 liability of a defendant for punitive damages. Evidence of
14 defendant's financial condition shall not be admissible in the
15 first stage of such trial unless admissible for a proper purpose
16 other than the amount of punitive damages.

17 3. If during the first stage of a bifurcated trial the jury
18 determines that a defendant is liable for punitive damages, that
19 jury shall determine, in a second stage of trial, the amount of
20 punitive damages to be awarded against such defendant. Evidence
21 of such defendant's net worth shall be admissible during the
22 second stage of such trial.

23 4. Within the time for filing a motion for new trial, a
24 defendant may file a post-trial motion requesting the amount

1 awarded by the jury as punitive damages be credited by the court
2 with amounts previously paid by the defendant for punitive
3 damages arising out of the same conduct on which the imposition
4 of punitive damages is based. At any hearing, the burden on all
5 issues relating to such a credit shall be on the defendant and
6 either party may introduce relevant evidence on such motion.
7 Such a motion shall be determined by the trial court within the
8 time and according to procedures applicable to motions for new
9 trial. If the trial court sustains such a motion the trial court
10 shall credit the jury award of punitive damages by the amount
11 found by the trial court to have been previously paid by the
12 defendant arising out of the same conduct and enter judgment
13 accordingly. If the defendant fails to establish entitlement to
14 a credit under the provisions of this section, or the trial court
15 finds from the evidence that the defendant's conduct out of which
16 the prior punitive damages award arose was not the same conduct
17 on which the imposition of punitive damages is based in the
18 pending action, or the trial court finds the defendant
19 unreasonably continued the conduct after acquiring actual
20 knowledge of the dangerous nature of such conduct, the trial
21 court shall disallow such credit, or, if the trial court finds
22 that the laws regarding punitive damages in the state in which
23 the prior award of punitive damages was entered substantially and
24 materially deviate from the law of the state of Missouri and that

1 the nature of such deviation provides good cause for disallowance
2 of the credit based on the public policy of Missouri, then the
3 trial court may disallow all or any part of the credit provided
4 by this section.

5 5. The credit allowable under this section shall not apply
6 to causes of action for libel, slander, assault, battery, false
7 imprisonment, criminal conversation, malicious prosecution or
8 fraud.

9 6. The doctrines of remittitur and additur, based on the
10 trial judge's assessment of the totality of the surrounding
11 circumstances, shall apply to punitive damage awards.

12 7. As used in this section, "punitive damage award" means
13 an award for punitive or exemplary damages or an award for
14 aggravating circumstances.

15 8. Discovery as to a defendant's assets shall be allowed
16 only after a finding by the trial court that it is more likely
17 than not that the plaintiff will be able to present a submissible
18 case to the trier of fact on the plaintiff's claim of punitive
19 damages.

20 516.105. All actions against physicians, hospitals,
21 dentists, registered or licensed practical nurses, optometrists,
22 podiatrists, pharmacists, chiropractors, professional physical
23 therapists, and any other entity providing health care services
24 and all employees of any of the foregoing acting in the course

1 and scope of their employment, for damages for malpractice,
2 negligence, error or mistake related to health care shall be
3 brought within two years from the date of occurrence of the act
4 of neglect complained of, except that:

5 (1) In cases in which the act of neglect complained of is
6 introducing and negligently permitting any foreign object to
7 remain within the body of a living person, the action shall be
8 brought within two years from the date of the discovery of such
9 alleged negligence, or from the date on which the patient in the
10 exercise of ordinary care should have discovered such alleged
11 negligence, whichever date first occurs; and

12 (2) In cases in which the act of neglect complained of is
13 the negligent failure to inform the patient of the results of
14 medical tests, the action for failure to inform shall be brought
15 within two years from the date of the discovery of such alleged
16 negligent failure to inform, or from the date on which the
17 patient in the exercise of ordinary care should have discovered
18 such alleged negligent failure to inform, whichever date first
19 occurs; except that, no such action shall be brought for any
20 negligent failure to inform about the results of medical tests
21 performed more than two years before August 28, 1999; and

22 (3) In cases in which the person bringing the action is a
23 minor less than eighteen years of age, such minor shall have
24 until his or her twentieth birthday to bring such action.

1 In no event shall any action for damages for malpractice, error,
2 or mistake be commenced after the expiration of ten years from
3 the date of the act of neglect complained of or for ten years
4 from a minor's [twentieth] eighteenth birthday, whichever is
5 later.

6 537.035. 1. As used in this section, unless the context
7 clearly indicates otherwise, the following words and terms shall
8 have the meanings indicated:

9 (1) "Health care professional", a physician or surgeon
10 licensed under the provisions of chapter 334, RSMo, or a dentist
11 licensed under the provisions of chapter 332, RSMo, or a
12 podiatrist licensed under the provisions of chapter 330, RSMo, or
13 an optometrist licensed under the provisions of chapter 336,
14 RSMo, or a pharmacist licensed under the provisions of chapter
15 338, RSMo, or a chiropractor licensed under the provisions of
16 chapter 331, RSMo, or a psychologist licensed under the
17 provisions of chapter 337, RSMo, or a nurse licensed under the
18 provisions of chapter 335, RSMo, or a social worker licensed
19 under the provisions of chapter 337, RSMo, or a professional
20 counselor licensed under the provisions of chapter 337, RSMo, or
21 a mental health professional as defined in section 632.005, RSMo,
22 while acting within their scope of practice;

23 (2) "Peer review committee", a committee of health care
24 professionals with the responsibility to evaluate, maintain, or

1 monitor the quality and utilization of health care services or to
2 exercise any combination of such responsibilities.

3 2. A peer review committee may be constituted as follows:

4 (1) Comprised of, and appointed by, a state, county or
5 local society of health care professionals;

6 (2) Comprised of, and appointed by, the partners,
7 shareholders, or employed health care professionals of a
8 partnership or professional corporation of health care
9 professionals;

10 (3) Appointed by the board of trustees, chief executive
11 officer, or the organized medical staff of a licensed hospital,
12 or other health facility operating under constitutional or
13 statutory authority, including long-term care facilities licensed
14 under chapter 198, RSMo, or an administrative entity of the
15 department of mental health recognized pursuant to the provisions
16 of subdivision (3) of subsection 1 of section 630.407, RSMo;

17 (4) Any other organization formed pursuant to state or
18 federal law authorized to exercise the responsibilities of a peer
19 review committee and acting within the scope of such
20 authorization;

21 (5) Appointed by the board of directors, chief executive
22 officer or the medical director of the licensed health
23 maintenance organization.

24 3. Each member of a peer review committee and each person,

1 hospital governing board, health maintenance organization board
2 of directors, and chief executive officer of a licensed hospital
3 or other hospital operating under constitutional or statutory
4 authority, chief executive officer or medical director of a
5 licensed health maintenance organization who testifies before, or
6 provides information to, acts upon the recommendation of, or
7 otherwise participates in the operation of, such a committee
8 shall be immune from civil liability for such acts so long as the
9 acts are performed in good faith, without malice and are
10 reasonably related to the scope of inquiry of the peer review
11 committee.

12 4. Except as otherwise provided in this section, the
13 proceedings, findings, deliberations, reports, and minutes of
14 peer review committees concerning the health care provided any
15 patient are privileged and shall not be subject to discovery,
16 subpoena, or other means of legal compulsion for their release to
17 any person or entity or be admissible into evidence in any
18 judicial or administrative action for failure to provide
19 appropriate care. Except as otherwise provided in this section,
20 no person who was in attendance at any peer review committee
21 proceeding shall be permitted or required to disclose any
22 information acquired in connection with or in the course of such
23 proceeding, or to disclose any opinion, recommendation, or
24 evaluation of the committee or board, or any member thereof;

1 provided, however, that information otherwise discoverable or
2 admissible from original sources is not to be construed as immune
3 from discovery or use in any proceeding merely because it was
4 presented during proceedings before a peer review committee nor
5 is a member, employee, or agent of such committee, or other
6 person appearing before it, to be prevented from testifying as to
7 matters within his personal knowledge and in accordance with the
8 other provisions of this section, but such witness cannot be
9 questioned about testimony or other proceedings before any health
10 care review committee or board or about opinions formed as a
11 result of such committee hearings.

12 5. The provisions of subsection 4 of this section limiting
13 discovery and admissibility of testimony as well as the
14 proceedings, findings, records, and minutes of peer review
15 committees do not apply in any judicial or administrative action
16 brought by a peer review committee or the legal entity which
17 formed or within which such committee operates to deny, restrict,
18 or revoke the hospital staff privileges or license to practice of
19 a physician or other health care providers; or when a member,
20 employee, or agent of the peer review committee or the legal
21 entity which formed such committee or within which such committee
22 operates is sued for actions taken by such committee which
23 operate to deny, restrict or revoke the hospital staff privileges
24 or license to practice of a physician or other health care

1 provider.

2 6. Nothing in this section shall limit authority otherwise
3 provided by law of a health care licensing board of the state of
4 Missouri to obtain information by subpoena or other authorized
5 process from peer review committees or to require disclosure of
6 otherwise confidential information relating to matters and
7 investigations within the jurisdiction of such health care
8 licensing boards.

9 537.067. [1.] In all tort actions for damages[, in which
10 fault is not assessed to the plaintiff], [the defendants] a
11 defendant shall be jointly and severally liable for the amount of
12 [the judgment] the compensatory damages and noneconomic damages
13 portion of the judgment rendered against [such] defendants only
14 with those defendants whose apportioned percentage of fault is
15 less than such defendant. A defendant may not be jointly or
16 severally liable for more than the percentage of punitive damages
17 for which fault is attributed to such defendant by the trier of
18 fact.

19 [2. In all tort actions for damages in which fault is
20 assessed to plaintiff the defendants shall be jointly and
21 severally liable for the amount of the judgment rendered against
22 such defendants except as follows:

23 (1) In all such actions in which the trier of fact assesses
24 a percentage of fault to the plaintiff, any party, including the

1 plaintiff, may within thirty days of the date the verdict is
2 rendered move for reallocation of any uncollectible amounts;

3 (2) If such a motion is filed the court shall determine
4 whether all or part of a party's equitable share of the
5 obligation is uncollectible from that party, and shall reallocate
6 any uncollectible amount among the other parties, including a
7 claimant at fault, according to their respective percentages of
8 fault;

9 (3) The party whose uncollectible amount is reallocated is
10 nonetheless subject to contribution and to any continuing
11 liability to the claimant on the judgment[;].

12 [(4) No amount shall be reallocated to any party whose
13 assessed percentage of fault is less than the plaintiff's so as
14 to increase that party's liability by more than a factor of two;

15 (5) If such a motion is filed, the parties may conduct
16 discovery on the issue of collectibility prior to a hearing on
17 such motion;

18 (6) Any order of reallocation pursuant to this section
19 shall be entered within one hundred twenty days after the date of
20 filing such a motion for reallocation. If no such order is
21 entered within that time, such motion shall be deemed to be
22 overruled;

23 (7) Proceedings on a motion for reallocation shall not
24 operate to extend the time otherwise provided for post-trial

1 motion or appeal on other issues.

2 Any appeal on an order or denial of reallocation shall be taken
3 within the time provided under applicable rules of civil
4 procedure and shall be consolidated with any other appeal on
5 other issues in the case.

6 3. This section shall not be construed to expand or
7 restrict the doctrine of joint and several liability except for
8 reallocation as provided in subsection 2.]

9 538.205. As used in sections 538.205 to 538.230, the
10 following terms shall mean:

11 (1) "Economic damages", damages arising from pecuniary harm
12 including, without limitation, medical damages, and those damages
13 arising from lost wages and lost earning capacity;

14 (2) "Equitable share", the share of a person or entity in
15 an obligation that is the same percentage of the total obligation
16 as the person's or entity's allocated share of the total fault,
17 as found by the trier of fact;

18 (3) "Future damages", damages that the trier of fact finds
19 will accrue after the damages findings are made;

20 (4) "Health care provider", any physician, hospital, health
21 maintenance organization, ambulatory surgical center, long-term
22 care facility including those licensed under chapter 198, RSMo,
23 dentist, registered or licensed practical nurse, optometrist,

1 podiatrist, pharmacist, chiropractor, professional physical
2 therapist, psychologist, physician-in-training, and any other
3 person or entity that provides health care services under the
4 authority of a license or certificate;

5 (5) "Health care services", any services that a health care
6 provider renders to a patient in the ordinary course of the
7 health care provider's profession or, if the health care provider
8 is an institution, in the ordinary course of furthering the
9 purposes for which the institution is organized. Professional
10 services shall include, but are not limited to, transfer to a
11 patient of goods or services incidental or pursuant to the
12 practice of the health care provider's profession or in
13 furtherance of the purposes for which an institutional health
14 care provider is organized;

15 (6) "Medical damages", damages arising from reasonable
16 expenses for necessary drugs, therapy, and medical, surgical,
17 nursing, x-ray, dental, custodial and other health and
18 rehabilitative services;

19 (7) "Noneconomic damages", damages arising from
20 nonpecuniary harm including, without limitation, pain, suffering,
21 mental anguish, inconvenience, physical impairment,
22 disfigurement, loss of capacity to enjoy life, and loss of
23 consortium but shall not include punitive damages;

24 (8) "Past damages", damages that have accrued when the

1 damages findings are made;

2 (9) "Physician employee", any person or entity who works
3 for hospitals for a salary or under contract and who is covered
4 by a policy of insurance or self-insurance by a hospital for acts
5 performed at the direction or under control of the hospital;

6 (10) "Punitive damages", damages intended to punish or
7 deter willful, wanton or malicious misconduct, including
8 exemplary damages and damages for aggravating circumstances;

9 (11) "Self-insurance", a formal or informal plan of
10 self-insurance or no insurance of any kind.

11 538.210. 1. In any action against a health care provider
12 for damages for personal injury or death arising out of the
13 rendering of or the failure to render health care services, no
14 plaintiff shall recover more than [three] four hundred [fifty]
15 thousand dollars [per occurrence] for noneconomic damages [from
16 any one defendant as defendant is defined in subsection 2 of this
17 section] irrespective of the number of defendants.

18 2. ["Defendant" for purposes of sections 538.205 to 538.230
19 shall be defined as:

20 (1) A hospital as defined in chapter 197, RSMo, and its
21 employees and physician employees who are insured under the
22 hospital's professional liability insurance policy or the
23 hospital's self-insurance maintained for professional liability
24 purposes;

1 (2) A physician, including his nonphysician employees who
2 are insured under the physician's professional liability
3 insurance or under the physician's self-insurance maintained for
4 professional liability purposes;

5 (3) Any other health care provider having the legal
6 capacity to sue and be sued and who is not included in
7 subdivisions (1) and (2) of this subsection, including employees
8 of any health care providers who are insured under the health
9 care provider's professional liability insurance policy or
10 self-insurance maintained for professional liability purposes.]
11 Such limitation shall also apply to any other individual or
12 entity that is a defendant in a lawsuit brought against a health
13 care provider pursuant to this chapter, or that is a defendant in
14 any lawsuit that arises out of the rendering of or the failure to
15 render health care services.

16 3. No hospital or other health care provider shall be
17 liable to any plaintiff based on the actions or omissions of any
18 other entity or person who is not an employee of that hospital or
19 other health care provider.

20 [3.] 4. In any action against a health care provider for
21 damages for personal injury or death arising out of the rendering
22 of or the failure to render health care services, where the trier
23 of fact is a jury, such jury shall not be instructed by the court
24 with respect to the limitation on an award of noneconomic

1 damages, nor shall counsel for any party or any person providing
2 testimony during such proceeding in any way inform the jury or
3 potential jurors of such limitation.

4 [4. The limitation on awards for noneconomic damages
5 provided for in this section shall be increased or decreased on
6 an annual basis effective January first of each year in
7 accordance with the Implicit Price Deflator for Personal
8 Consumption Expenditures as published by the Bureau of Economic
9 Analysis of the United States Department of Commerce. The
10 current value of the limitation shall be calculated by the
11 director of the department of insurance, who shall furnish that
12 value to the secretary of state, who shall publish such value in
13 the Missouri Register as soon after each January first as
14 practicable, but it shall otherwise be exempt from the provisions
15 of section 536.021, RSMo.]

16 5. For purposes of sections 538.205 to 538.230, any spouse
17 claiming damages for loss of consortium of their spouse shall be
18 considered to be the same plaintiff as their spouse.

19 [5.] 6. Any provision of law or court rule to the contrary
20 notwithstanding, an award of punitive damages against a health
21 care provider governed by the provisions of sections 538.205 to
22 538.230 shall be made only upon a showing by a plaintiff that the
23 health care provider demonstrated willful, wanton or malicious
24 misconduct with respect to his actions which are found to have

1 injured or caused or contributed to cause the damages claimed in
2 the petition.

3 7. For purposes of sections 538.205 to 538.230, all
4 individuals and entities asserting a claim for a wrongful death
5 pursuant to section 537.080, RSMo, shall be considered to be one
6 plaintiff.

7 538.213. 1. Any physician licensed pursuant to chapter
8 334, RSMo, or dentist licensed pursuant to chapter 332, RSMo, or
9 hospital, or employee of a hospital as defined in section
10 197.020, RSMo, or other health care provider as defined in
11 section 538.205, who renders any care or assistance in a hospital
12 shall not be held liable for more than two hundred thousand
13 dollars for noneconomic damages, exclusive of interest computed
14 from the date of judgment, to or for the benefit of any claimant
15 arising out of any act or omission in rendering that care or
16 assistance when:

17 (1) The care or assistance is rendered in a hospital
18 emergency department, or is care rendered within twenty-four
19 hours of receiving care in the emergency department;

20 (2) The care or assistance rendered is necessitated by a
21 traumatic injury demanding immediate medical attention for which
22 the patient enters the hospital for care in its emergency
23 department or trauma center; and

24 (3) The care or assistance is rendered in good faith and in

1 a manner not amounting to reckless, willful, or wanton conduct.

2 2. The limitation on liability provided pursuant to this
3 section does not apply to any act or omission in rendering care
4 or assistance which:

5 (1) Occurs after the patient is stabilized and is capable
6 of receiving medical treatment as a nonemergency patient; or

7 (2) Is unrelated to the original traumatic injury.

8 3. There shall be a rebuttable presumption that the medical
9 condition was the result of the original traumatic injury.

10 4. In considering whether an act or omission constitutes
11 reckless, willful, or wanton conduct, the court shall consider
12 the following:

13 (1) The extent or serious nature of the prevailing
14 circumstances;

15 (2) The lack of time or ability to obtain appropriate
16 consultation;

17 (3) The lack of a prior medical relationship with the
18 patient;

19 (4) The inability to obtain an appropriate medical history
20 of the patient; and

21 (5) The time constraints imposed by coexisting emergencies.

22 5. For purposes of this section "Traumatic injury" shall
23 mean any acute injury or illness which, according to standardized
24 criteria for triage in the field, involves a significant risk of

1 death or the precipitation of complications or disabilities.

2 538.220. 1. In any action against a health care provider
3 for damages for personal injury or death arising out of the
4 rendering of or the failure to render health care services, past
5 damages shall be payable in a lump sum.

6 2. At the request of any party to such action made prior to
7 the entry of judgment, the court shall include in the judgment a
8 requirement that future damages be paid in whole or in part in
9 periodic or installment payments if the total award of damages in
10 the action exceeds one hundred thousand dollars. Any judgment
11 ordering such periodic or installment payments shall specify a
12 future medical periodic payment schedule, which shall include:
13 the recipient, the amount of each payment, the interval between
14 payments, and the number of payments. The duration of the future
15 medical payment schedule shall be for a period of time no less
16 than the evidence of life expectancy presented at trial. The
17 amount of each of the future medical periodic payments shall be
18 determined by dividing the total amount of future medical damages
19 by the number of future medical periodic payments. The court
20 shall apply interest on such future periodic payments at a per
21 annum interest rate no greater than the coupon issue yield
22 equivalent, as determined by the Federal Reserve Board, of the
23 average accepted auction price for the last auction of fifty-two
24 week United States Treasury bills settled immediately prior to

1 the date of the judgment. The judgment shall state the
2 applicable interest rate. The parties shall be afforded the
3 opportunity to agree on the manner of payment of future damages,
4 including the rate of interest, if any, to be applied, subject to
5 court approval. However, in the event the parties cannot agree,
6 the unresolved issues shall be submitted to the court for
7 resolution, either with or without a post-trial evidentiary
8 hearing which may be called at the request of any party or the
9 court. If a defendant makes the request for payment pursuant to
10 this section, such request shall be binding only as to such
11 defendant and shall not apply to or bind any other defendant.

12 3. As a condition to authorizing periodic payments of
13 future damages, the court may require a judgment debtor who is
14 not adequately insured to post security or purchase an annuity
15 adequate to assure full payment of such damages awarded by the
16 judgment. Upon termination of periodic payments of future
17 damages, the court shall order the return of this security or so
18 much as remains to the judgment debtor.

19 4. If a plaintiff and his attorney have agreed that
20 attorney's fees shall be paid from the award, as part of a
21 contingent fee arrangement, it shall be presumed that the fee
22 will be paid at the time the judgment becomes final. If the
23 attorney elects to receive part or all of such fees in periodic
24 or installment payments from future damages, the method of

1 payment and all incidents thereto shall be a matter between such
2 attorney and the plaintiff and not subject to the terms of the
3 payment of future damages, whether agreed to by the parties or
4 determined by the court.

5 5. Upon the death of a judgment creditor, the right to
6 receive payments of future damages, other than future medical
7 damages, being paid by installments or periodic payments will
8 pass in accordance with the Missouri probate code unless
9 otherwise transferred or alienated prior to death. Payment of
10 future medical damages will continue to the estate of the
11 judgment creditor only for as long as necessary to enable the
12 estate to satisfy medical expenses of the judgment creditor that
13 were due and owing at the time of death, which resulted directly
14 from the injury for which damages were awarded, and do not exceed
15 the dollar amount of the total payments for such future medical
16 damages outstanding at the time of death.

17 6. Nothing in this section shall prevent the parties from
18 contracting and agreeing to settle and resolve the claim for
19 future damages. If such an agreement is reached by the parties,
20 the future periodic payment schedule will become moot.

21 538.225. 1. In any action against a health care provider
22 for damages for personal injury or death on account of the
23 rendering of or failure to render health care services, the
24 plaintiff or [his] the plaintiff's attorney shall file an

1 affidavit with the court stating that he or she has obtained the
2 written opinion of a legally qualified health care provider which
3 states that the defendant health care provider failed to use such
4 care as a reasonably prudent and careful health care provider
5 would have under similar circumstances and that such failure to
6 use such reasonable care directly caused or directly contributed
7 to cause the damages claimed in the petition. The written
8 opinion shall be subject to in camera review at the request of
9 any defendant for a determination of whether the health care
10 provider offering such an opinion meets the qualifications set
11 forth in subsection 6 of this section.

12 2. The affidavit shall state the qualifications of such
13 health care providers to offer such opinion.

14 3. A separate affidavit shall be filed for each defendant
15 named in the petition.

16 4. Such affidavit shall be filed no later than ninety days
17 after the filing of the petition unless the court, for good cause
18 shown, orders that such time be extended for a period of time not
19 to exceed an additional ninety days.

20 5. If the plaintiff or his attorney fails to file such
21 affidavit the court [may] shall, upon motion of any party,
22 dismiss the action against such moving party without prejudice.

23 6. As used in this section, the term "legally qualified
24 health care provider" means a health care provider licensed in

1 this state or any other state in substantially the same
2 profession and authorized to practice in substantially the same
3 specialty as the defendant.

4 538.226. 1. The portion of statements, writings, or
5 benevolent gestures expressing sympathy or a general sense of
6 benevolence relating to the pain, suffering, or death of a person
7 and made to that person or to the family of that person shall be
8 inadmissible as evidence of an admission of liability in a civil
9 action. A statement of fault, however, which is part of, or in
10 addition to, any of the provisions of this subsection shall not
11 be inadmissible pursuant to this section.

12 2. For the purposes of this section:

13 (1) "Benevolent gestures", actions which convey a sense of
14 compassion or commiseration emanating from humane impulses;

15 (2) "Family", the spouse, parent, grandparent, stepmother,
16 stepfather, child, grandchild, brother, sister, half brother,
17 half sister, adopted children of a parent, or spouse's parents of
18 an injured party.

19 Section 1. If any provision of this act is found by a court
20 of competent jurisdiction to be invalid or unconstitutional it is
21 the stated intent of the legislature that the legislature would
22 have approved the remaining portions of the act, and the
23 remaining portions of the act shall remain in full force and
24 effect.

1 Section 2. The provisions of this act shall apply to all
2 causes of action filed after August 28, 2004.

3 Section 3. At any time prior to the commencement of a
4 trial, if a plaintiff or defendant is either added or removed
5 from a complaint filed in any court in the state of Missouri
6 which would have, if originally added or removed to the initial
7 petition, altered the determination of venue under section
8 508.010, RSMo, then the judge shall transfer the case to a proper
9 forum pursuant to section 476.410, RSMo.

10 [355.176. 1. A corporation's
11 registered agent is the corporation's agent
12 for service of process, notice, or demand
13 required or permitted by law to be served on
14 the corporation.

15 2. If a corporation has no registered
16 agent, or the agent cannot with reasonable
17 diligence be served, the corporation may be
18 served by registered or certified mail,
19 return receipt requested, addressed to the
20 secretary of the corporation at its principal
21 office shown in the most recent annual report
22 filed pursuant to section 355.856. Service
23 is perfected under this subsection on the
24 earliest of:

25 (1) The date the corporation receives
26 the mail;

27 (2) The date shown on the return
28 receipt, if signed on behalf of the
29 corporation; or

30 (3) Five days after its deposit in the
31 United States mail, if mailed and correctly
32 addressed with first class postage affixed.]

33 [508.040. Suits against corporations
34 shall be commenced either in the county where
35 the cause of action accrued, or in case the
36 corporation defendant is a railroad company
37 owning, controlling or operating a railroad
38 running into or through two or more counties

1 in this state, then in either of such
2 counties, or in any county where such
3 corporations shall have or usually keep an
4 office or agent for the transaction of their
5 usual and customary business.]
6

7 [508.070. 1. Suit may be brought
8 against any motor carrier which is subject to
9 regulation pursuant to chapter 390, RSMo, in
10 any county where the cause of action may
11 arise, in any town or county where the motor
12 carrier operates, or judicial circuit where
13 the cause of action accrued, or where the
14 defendant maintains an office or agent, and
15 service may be had upon the motor carrier
16 whether an individual person, firm, company,
17 association, or corporation, by serving
18 process upon the director, division of motor
19 carrier and railroad safety.

20 2. When a summons and petition are
21 served upon the director, division of motor
22 carrier and railroad safety, naming any motor
23 carrier, either a resident or nonresident of
24 this state, as a defendant in any action, the
25 director shall immediately mail the summons
26 and petition by registered United States mail
27 to the motor carrier at the business address
28 of the motor carrier as it appears upon the
29 records of the commission. The director
30 shall request from the postmaster a return
31 receipt from the motor carrier to whom the
32 registered letter enclosing copy of summons
33 and petition is mailed. The director shall
34 inform the clerk of the court out of which
35 the summons was issued that the summons and
36 petition were mailed to the motor carrier, as
37 herein described, and the director shall
38 forward to the clerk the return receipt
39 showing delivery of the registered letter.

40 3. Each motor carrier not a resident of
41 this state and not maintaining an office or
42 agent in this state shall, in writing,
43 designate the director as its authorized
44 agent upon whom legal service may be had in
45 all actions arising in this state from any
46 operation of the motor vehicle pursuant to
47 authority of any certificate or permit, and
48 service shall be had upon the nonresident

1 motor carrier as herein provided.
2 4. There shall be kept in the office of
3 the director, division of motor carrier and
4 railroad safety a permanent record showing
5 all process served, the name of the plaintiff
6 and defendant, the court from which the
7 summons issued, the name and title of the
8 officer serving the same, the day and the
9 hour of service, the day and date on which
10 petition and summons were forwarded to the
11 defendant or defendants by registered letter,
12 the date on which return receipt is received
13 by the director, and the date on which the
14 return receipt was forwarded to the clerk of
15 the court out of which the summons was
16 issued.]

17 [508.120. No defendant shall be allowed
18 a change of venue and no application by a
19 defendant to disqualify a judge shall be
20 granted unless the application therefor is
21 made before the filing of his answer to the
22 merits, except when the cause for the change
23 of venue or disqualification arises, or
24 information or knowledge of the existence
25 thereof first comes to him, after the filing
26 of his answer in which case the application
27 shall state the time when the cause arose or
28 when applicant acquired information and
29 knowledge thereof, and the application must
30 be made within five days thereafter.]